

QUANTEX CORPORATION ET AL.

IBLA 72-5, etc. 1/

Decided October 28, 1971

Oil and Gas Leases: Generally -- Secretary of the Interior

The Secretary of the Interior, in the exercise of his discretionary authority respecting issuance of oil and gas leases, may require acceptance of special stipulations as a condition precedent to issuance of such a lease, where such stipulations are designed to protect the soil and surface resources and do not unreasonably interfere with the lessee's rights of enjoyment.

National Environmental Policy Act of 1969 -- Oil and Gas Leases: Generally

It is proper to require one making an oil and gas lease offer to consent to stipulations deemed necessary to protect the land and surface resources from undue damage by exploratory operations, as a condition precedent to issuance of the lease, pursuant to the mandate of the Congress expressed in the National Environmental Policy Act of 1969.

Oil and Gas Leases: Consent of Agency

An applicant for a noncompetitive public land oil and gas lease of lands being administered by the Forest Service is properly required to file a written consent to stipulations requested by that agency as a condition precedent to issuance of the lease, or face rejection of his offer, where the stipulations are not unreasonable and will not seriously deter operations for development of the leased oil and gas deposits.

Oil and Gas Leases: Generally

An applicant for a noncompetitive oil and gas lease on lands included within the oil shale areas of Colorado, Utah and Wyoming, as defined in the Secretary's Order of June 1, 1971, is properly required to accept, in writing, the special stipulations required by that order or face rejection of his offer.

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: U-14493 etc. 1/

QUANTEX CORPORATION ET AL.

: Oil and gas lease offers;
: stipulations required

: Affirmed

DECISION

Quantex Corporation, and others 1/ have appealed individually from decisions in which the Utah land office, Bureau of Land Management, required each of them to agree to special stipulations as a condition precedent to issuance of noncompetitive oil and gas leases under Sec. 17, Mineral Leasing Act of 1920, 30 U.S.C. § 226 (1970), in response to their respective lease offers. The stipulations would require the lessee to notify, in writing, the district manager, Bureau of Land Management, or the forest supervisor, Forest Service, of any proposed operations on the leasehold within their respective areas of jurisdiction which might damage the surface resources, cause water pollution, scar the public lands or induce erosion. In addition, the lessee would be precluded from use or occupancy of the surface of lands included in proposed or actual recreational development areas, watershed areas, or within specified distances from certain roads and waters, as specifically described in the stipulation, although exploitation of the oil and gas resources underlying such lands may be accomplished by directional drilling from outside the restricted areas, and the lessee would be limited as to his use of lands within the "oil shale areas" established by Executive Order No. 5327.

The appellants contend essentially that the required stipulations will create unnecessary restrictions against exploration for oil and gas under the federal leases.

We look first at the requirement that notice be given to the BLM district manager. The Secretary of the Interior has discretionary authority to issue oil and gas leases pursuant to the Mineral Leasing Act of 1920 under such rules and regulations as he

1/ See Appendix for a listing of IBLA docket numbers, BLM serial numbers, appellants, and stipulations required for each offer.

deems necessary. 30 U.S.C. § 189 (1970). Furthermore, he is vested with plenary authority over administration of the public lands, including institution of measures designed to protect these lands and their resources. 43 U.S.C. § 1457 (1970). He exercises these general powers over the public lands as guardian of the people. United States v. Wilbur, 283 U.S. 414, 419 (1931). Moreover, he is obligated to support and implement the policy expressed by the Congress in the National Environmental Policy Act of 1969. 42 U.S.C. § 4331 (1970).

The responsibility in the Department of the Interior for management of public land resources, with direction to develop a program to provide for protection of the resources and for a quality environment, has been delegated to the Bureau of Land Management. The requirements set forth in the environmental protection stipulation are authorized by 43 CFR 3109.2-1 (1971). The requirement that notice be given to the district manager is neither an abuse of the Secretary's authority nor an impediment of any consequence to exploratory operations of the lessee as alleged by appellants. The stipulation is not unreasonable, nor unduly restrictive. Moreover, it comports with the mandate of the Congress in the National Environmental Policy Act of 1969. Each appellant is properly required to consent to the stipulation requested by the district manager, BLM, as a condition precedent to issuance of an oil and gas lease on public lands or face rejection of his lease offer.

Now looking at the requirement that a notice be given to the national forest supervisor, we find that the Secretary of Agriculture has jurisdiction over public lands withdrawn for national forest purposes, and is under broad mandates from the Congress to promote conservation and best use of the national forest lands, including management of watersheds, regulation of streamflow and reduction of soil erosion. 16 U.S.C. § 472 (1970). Although the Secretary of the Interior has exclusive jurisdiction over oil and gas leasing of national forest lands, he may consider the recommendations of the Secretary of Agriculture prior to issuance of any such oil and gas lease. 43 CFR 3109.4-2 (1971).

The stipulation that notice be given to the national forest supervisor has been the subject of many appeals before this Department in the past. See, e.g., Duncan Miller, A-30722 (April 14, 1967); J. D. Archer, A-30750 (May 31, 1967). In every case arising from a request for this type of stipulation, the Department has held that it sees no serious problem insofar as operations of the lessee are concerned and that it has no reason to question the propriety of the stipulation. We adhere to the position that this Department will

not issue an oil and gas lease under Sec. 17 of the Mineral Leasing Act, supra, on national forest lands unless the stipulation, so long as we consider it to be not unreasonable, is agreed to by the offeror. 43 CFR 3109.4-2 (1971); Duncan Miller, A-29760, (September 18, 1963); H. E. Shillander, (January 26, 1965). If appellant has serious questions about the meaning of the stipulation or wants it modified, he should seek to obtain modification or clarification from the Forest Service. Duncan Miller, A-30742 (December 2, 1966).

Similarly, the propriety of the stipulation whereby the lessee must agree not to occupy the surface of specified areas set apart for recreational development, watershed protection or for aesthetic values are beyond question by this Department, unless they so seriously deter operations as to prevent development of the oil and gas resources. Even then, the importance of oil and gas development would have to be weighed against the importance of the environmental protective factors in order to determine whether a lease should be issued at all. While adherence to these stipulations, in the cases before us, may impede the lessee's proposed exploratory operation, the overriding importance to the public interest of the other land values, e.g., recreation, watershed protection, aesthetic beauty, outweigh the possible inconvenience to the lessee. The appellants where applicable are properly required, therefore, to consent to the stipulation relating to directional drilling as a condition precedent to issuance of an oil and gas lease on public lands withdrawn for national forest purposes or face rejection of the lease offer.

Finally we look at the "oil shale lands" stipulation. This stipulation is required pursuant to Secretary's Order of June 1, 1971, set forth at 615 Department Manual 2.1. This stipulation is mandatory, and must be accepted as a condition precedent to issuance of any oil and gas lease in the "oil shale areas of Colorado, Utah and Wyoming," as they are defined in Executive Order No. 5327 of April 15, 1930. See William S. Burness, 1 IBLA 180 (December 24, 1970). Where applicable, the appellant must accept the required stipulation or face rejection of his lease offer.

None of the appellants has made any substantive showing in support of his objection to the required stipulations nor has adduced cogent arguments that the stipulations will, in fact, prevent the orderly development of the oil and gas resources in the lands involved.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the decisions appealed from are affirmed. Each appellant is allowed 30 days from the date of this decision within which to submit

executed copies of the required stipulations to the Utah land office, Bureau of Land Management, failing in which his offers herein discussed will be rejected without further notice.

Newton Frishberg, Chairman

We concur:

Edward W. Stuebing, Member

Martin Ritvo, Member.

APPENDIX

Docket number	Appellant	BLM serial	Stipulations *	
IBLA 72-5	Quantex Corp.	U-14493	BLM, DD	14494
BLM		14795	BLM	
14796	BLM, FS		14797	FS
	14798	BLM		15092
	15093	BLM, OS		15094
BLM, OS		15095	BLM, OS	
15096	BLM, OS		15097	BLM, OS
15098	BLM, OS		15099	BLM, OS
IBLA 72-6	Milan S. Papulak,	14764	FS, DD	Kay Papulak
14777	FS, DD		14778	FS, DD
14779	FS, DD		14785	BLM, FS
14786	FS			
	14787	FS, DD		14788
	14789	BLM		14791
	14800	BLM, FS, DD		
IBLA 72-7	Geocon, Inc.,	14892	FS	
	Cameo Minerals, Inc.	14893	FS, DD	15100
FS, DD				
IBLA 72-12	Malcolm F. Justice, Jr.	14695	FS, DD	
IBLA 72-13	John Oakason	14965	FS, OS	
IBLA 72-27	John Oakason,	13976	FS, OS	Jean Oakason
15110	FS			
	15111	FS		
	15112	FS, DD, OS		15113
OS		15114	FS	
	15132	FS, DD		15133
				FS, DD

Docket number	Appellant	BLM serial	Stipulations *
(IBLA 72-27 continued)		U-15134	FS
		15135	FS
		15136	FS, DD
		15138	FS, DD
		15140	FS, DD
		15145	BLM
			15137 FS
			15139 FS
			15141 FS, DD
			15146 FS,
DD			
IBLA 72-31	James A. Krumhansl	14696	BLM
FS			15115
		15116	FS
		15117	BLM, DD
OS		15127	FS, DD
			15118 FS, DD,
IBLA 72-35	John Oakason	14849	BLM, FS
BLM		15221	BLM
15232 FS			15212
		15236	FS, DD
		15238	FS, DD
DD		15260	FS
			15237 FS, DD
			15239 FS,
IBLA 72-36	Malcolm F. Justice, Jr.	14128	FS, DD
IBLA 72-38	E. E. House	15446	BLM, OS
IBLA 72-47	Frances Kunkel	15311	BLM, OS
BLM, OS		15313	BLM, OS
15314 BLM, OS		15315	BLM, OS
15316 BLM, OS		15317	BLM, OS
15318 FS, DD		15319	BLM
15320 FS, DD		15321	BLM
15322 BLM		15323	BLM
15324 BLM		15325	BLM
15326 FS			

Docket number	Appellant	BLM serial	Stipulations *	
IBLA 72-52	John Oakason	14591	FS, DD	15261
FS, DD		15447	BLM, OS	
15448	BLM, OS		15480	BLM
15481	BLM		15482	BLM
15508	BLM		15509	BLM
15510	BLM		15537	BLM
15554	BLM, DD		15568	BLM, FS, DD
15571	BLM		15580	BLM, DD
15581	BLM			
IBLA 72-54	James A. Krumhansl	14592	FS	
	14593	FS		
	14594	FS		
IBLA 72-58	R. H. C. Cotter,	15283	FS, DD	J. L. Felter 15284
FS, DD		15337	FS	
IBLA 72-60	Jean Oakason	15327	BLM	15328
BLM		15330	BLM, OS	
15331	BLM, OS		15332	BLM, OS
15333	BLM, OS		15477	BLM
IBLA 72-64	Crest Resources, Inc.	15584	BLM	
IBLA 72-67	James A. Krumhansl	14555	FS, DD	
IBLA 72-68	Frances Kunkel	15511	BLM, OS	15513
BLM, OS		15514	BLM	
15517	BLM		15518	BLM, DD
15520	BLM		15521	BLM
15523	BLM		15524	BLM
15525	BLM		15563	BLM

Docket number	Appellant	BLM serial	Stipulations *	
IBLA 72-70 BLM	Bernard W. Cline	15573	BLM	15574
IBLA 72-71 FS	AA Minerals Corp.	14168	FS, OS	14169
	14170	FS, OS		
	14172	FS		
	14173	FS		
IBLA 72-89	John Oakason	15983	BLM	

*

BLM: Notice to district manager
 FS: Notice to forest supervisor
 DD: Directional drilling requirement
 OS: Oil shale lands involved

